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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,286	10/31/2003	Philip I. White	870P011078-US(PAR)	2563
27106	7590	08/10/2005	EXAMINER	
MELVIN I. STOLTZ, ESQ. 51 CHERRY STREET MILFORD, CT 06460			PURVIS, SUE A	
			ART UNIT	PAPER NUMBER
			1734	

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/699,286

Applicant(s)

WHITE ET AL.

Examiner

Sue A. Purvis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 50-53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/30/04 & 10/31/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 50-53 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 02 May 2005.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 25, 26, 36, 38, 39, and are rejected under 35 U.S.C. 102(b) as being anticipated by DiRusso, Jr. et al. (US Patent No. 4,869,769).

DiRusso, Jr. discloses an apparatus for sealing boxes with adhesive tape with pull-tabs. DiRusso, Jr. is a tape dispensing system with two, separate and independent components for application to a package. The system includes the features of claim 25 as follows:

- a. a first holding zone (74) constructed for supporting a supply of tape (68);
- b. a second holding zone (72) for supporting an elongated length of a cooperating element (70); and
- c. a feed assembly (42, 44) for receiving tape and cooperating element and merging them, forming an elongated strip of a package closing member, and enabling a desired length of the package closing member to be advanced therefrom.

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Regarding claim 26, DiRusso, Jr. discloses a cutting blade (62) mounted in cooperating association with the feed assembly (42, 44) for enabling the combined tape and cooperating element to be dispensed and cut to any desired length.

Regarding claim 36, the cutting blade (62) is positioned relative for assuring any length of combined tape and cooperating element dispensed therefrom comprises substantially equal length of both components.

Regarding claim 38, the feed assembly comprises a plurality of rollers for continuously feeding and advancing the tape and the cooperating element for providing the desired merging of the cooperating element with the tape during the dispensing thereof as shown in Figures 8 and 10.

Regarding claim 39, feed assembly includes a guiding mechanism for setting the tape and the cooperating element in the desired path to provide merging and dispensing.

4. Claims 25-28, 32-34, 36-39, and 43-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Gaikoski et al. (US Patent No. 6,159,328).

Gaikoski discloses a tape dispenser used particularly for taping containers such as cartons and boxes. Gaikoski has two, separate and independent components for application to a package. The system includes the features of claim 25 as follows:

- d. a first holding zone constructed for supporting a supply of tape (23);
- e. a second holding zone for supporting a cooperating element (10); and
- f. a feed assembly for receiving tape and cooperating element and merging them, forming an elongated strip of a package closing member, and enabling a desired length of the package closing member to be advanced therefrom. (Figures 3, 8, and 9.)

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Regarding claim 26, Gaikoski discloses a cutting blade (12) mounted in cooperating association with the feed assembly for enabling the combined tape and cooperating element to be dispensed and cut to any desired length.

Regarding claim 27, Gaikoski includes a handle member (11) constructed for supporting the holding zones and guide means and enabling the entire tape dispensing system to be easily held by an individual.

Regarding claim 28, the cooperating element in Gaikoski is defined as a tape tear out element.

Regarding claim 32, the tape in Gaikoski is a polymer.

Regarding claim 33, the adhesive is a pressure sensitive adhesive as is typically used with box tapes.

Regarding claim 34, a package, such as a box has two, juxtaposed, cooperating, pivotable flaps where the tape is defined as being affixable to the flaps for securely closing and sealing them. The strip in Gaikoski is used to allow ready and easy access to the package.

Regarding claim 36, the cutting blade (12) is positioned to assure any length of combined tape and cooperating element dispensed therefrom comprises substantially equal length of both components.

Regarding claim 37, the cutting blade (12) detailed in Figures 5A and 5B includes elements (28, 29) for forming slits in the tape on opposite sides of the cooperating element. (Col. 6, lines 36-45.)

Regarding claim 38, the feed assembly comprises a plurality of rollers for continuously feeding and advancing the tape and the cooperating element for providing the desired merging of the cooperating element with the tape during the dispensing thereof as shown in Figures 8 through 10.

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Regarding claim 39, feed assembly includes a guiding mechanism for setting the tape and the cooperating element in the desired path to provide merging and dispensing.

Regarding claim 43 through 47, the limitations are set forth above. In particular see Figures 8 through 10.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaikoski as applied to claims 25-27 above, and further in view of Pinchen et al. (US Patent No. 6,162,550) and Smith et al. (US Patent No. 6,281,795 B1).

Regarding claims 28 and 29, the cooperating element in Gaikoski is defined as a tape tear out element. However, Pinchen teaches article tagging and more particularly is concerned with applying tags to articles whereby their presence can be detected by electronic article surveillance techniques (EAS), which is equivalent to RFID as shown by Smith.

It would have been obvious to one having ordinary skill in the art at the time the invention was made that an EAS or RFID device can be used in the device of Gaikoski, because Pinchen teaches the use of an EAS in combination with an applicator and demonstrates its use with respect to a variety of packages. (Figures 8 and 9.) Furthermore, Smith demonstrates an RFID use in combination with a tape or label.

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Regarding claim 30, the cooperating element is fed from a roll in Gaikoski in view of Pinchen and Smith.

Regarding claim 31, the tape in Gaikoski is fed from a roll.

7. Claims 35, 40-42, 48, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaikoski.

Gaikoski does not disclose having pressure sensitive adhesive on the cooperating element as required by claim 35. Instead Gaikoski discloses the adhesive tape enabling the cooperating element to be affixed thereto. It would have been obvious to one having ordinary skill in the art at the time the invention was made that in addition or in the alternative to having the adhesive on the tape there can be adhesive on the cooperating element in Gaikoski. It is within the purview of the artisan to have adhesive on the element to assist in the application to the tape.

Regarding claims 40-42, 48, and 49, Gaikoski does not teach using a plurality of strands of reinforcing members affixed to the tape, however, use of reinforcing strands in tapes used in the sealing of boxes is well known in art and the examiner takes official notice of this. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a tape with reinforcing members in the device of Gaikoski, because the advantages of that kind of tape is well known to the artisan, in particular, the tape with reinforcing strands are stronger and more resilient.

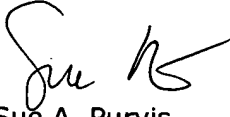
Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Purvis whose telephone number is (571) 272-1236. The examiner can normally be reached on Monday through Friday 9am to 6pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher A. Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sue A. Purvis
Primary Examiner
Art Unit 1734

SP
August 8, 2005